



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/566,363

08/29/2006

Chihiro Sawada

126817

3484

25944 7590 11/19/2010
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER

KNABLE, GEOFFREY L

ART UNIT

PAPER NUMBER

1747

NOTIFICATION DATE

DELIVERY MODE

11/19/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

OfficeAction25944@oliff.com
jarmstrong@oliff.com

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/566,363</p>	<p>Applicant(s) SAWADA ET AL.</p>	
	<p>Examiner Geoffrey L. Knable</p>	<p>Art Unit 1747</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 November 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 5.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 6 and 7.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Geoffrey L. Knable/
Primary Examiner, Art Unit 1747

Continuation of 3. NOTE: the proposed amendment to claim 6 raises significant new issues, including issues of new matter as well as new issues of indefiniteness under 35 USC 112. In particular, defining in lines 13-15 that the first required angle is an angular deviation between the axis of the carcass and bead core whereas lines 14-16 define that the band drum rotation angle control means rotates the drum by this angle is entirely confusing and lacks basis in the original disclosure. It is noted also that "bred" should be "bead" in line 12. .

Continuation of 11. does NOT place the application in condition for allowance because: principally the reasons of record. With respect to the 35 USC 112, first paragraph rejection, applicant refers to the language of original claim 1 with respect to determination of the required angle as well as arguing that "when calculating the angle, some sort of device must be performing the angle calculation". These arguments have been considered but are unpersuasive. While it would seem likely that a device is used to generate a radial force waveform, this is not the calculation of the required angle - rather, this is the data from which the required angle can be calculated. There is again no clear indication that an angle calculation device is disclosed. Note for example that a force variation machine could simply provide the angle at which the first harmonic is a peak and from this information, the ordinary artisan could simply, and without requiring any calculation device, simply calculate the angle to achieve the desired horizontal or vertical orientation of the peak (figs. 6 and 10). With respect to the 35 USC 112, second paragraph rejections, the proposed amendments have redefined the invention in a manner that present significant new confusion as noted in part 3 above and therefore significant confusion remains and new ambiguities are presented. The arguments with respect to the prior art stress the new language added to the claims. This language however raises significant new issues as noted above. Further, it is not clear that defining the specifics of the data upon which the calculation is based defines a materially different device, especially where the secondary references would suggest a capability to make calculations based on predetermined uniformity waveforms.